

The Department's administrative rules regarding Home Rule Municipal Retailers' Occupation Tax concerning jurisdictional questions may be found at 86 Ill. Adm. Code 270.115. (This is a GIL.)

July 25, 2005

Dear Xxxxx:

This letter is in response to your letter dated June 30, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I represent a direct selling company that sells various consumer products to independent business owners (distributors) at wholesale. The distributors retail the products to the general public.

In order to simplify and make more efficient the administration and collection of the sales and use tax procedures by the state and its local municipalities, the company is registered for the collection of sales tax.

The company pre-collects the applicable sales tax at the time the order is processed. The applicable tax is based on the taxable price and the ship-to-address.

The sales taxes collected by the company are remitted as required.

The company has regional distribution centers located through the country including one located in your state for the fulfillment of orders.

Upon a receipt of an order, the company will transmit the information to a distribution center for fulfillment.

Generally, the orders are shipped by common carrier or the United States Postal Service. However, as a convenience to the distributors, they are permitted to pickup their order at a regional distribution center. In this situation, a distributor is charged sales tax based on the location of the regional distribution center even though the products will be transported to the distributor's location.

The distributor's location can be within the state or in another state.

The company has received numerous inquiries from its distributors regarding this practice. Distributors have requested that the company collect the applicable sales tax based on their location.

Based on the above facts, is the company required to collect the applicable sales tax based on the location of the regional distribution center or is it permitted to collect based on the distributors location?

Please advise the undersigned as to the correct procedure.

Thank you for your assistance.

DEPARTMENT'S RESPONSE:

For general information regarding the Home Rule Municipal Retailer's Occupation Tax and guidance regarding jurisdictional questions, please refer to 86 Ill. Adm. Code 270.115. In general, the imposition of the various sales-tax-related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax.

The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. If a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. The tax rate is fixed by the location of the seller, not the delivery location. See 86 Ill. Adm. Code 270.115.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk